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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/528,950
Filing Date: March 23, 2005
Appellant(s): PENNA ET AL.

Michael Marcin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/6/2008 appealing from the Office action mailed 9/25/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6437797	Ota	2-1998
2002/0154150	Ogaki et al.	3-2002
6801777	Rusch	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by **Ota** (US Patent 6437797).

As to claim 1, Ota discloses a portable computer device comprising: a data input (fig. 1(14), GPS receiver);

a control input (fig. 8(60A), picture button, fig. 9(64G), display position button);

data acceptance logic (fig. 2, code(Tag), col. 3, lines 61-67) arranged to accept data on the data input (col. 3, lines 16-18, data from satellites), to determine whether time and location information is present (col.3, 18-22), to add time and/or location information to data items not having time and/or location information (col.3, 18-22) respectively and to store data items in memory (fig. 1(16), col. 3, lines 8-12, 39-46, SSFDC) together with respective time and location information;

and a display arrangement (figs. 1(14, 24)) arranged to cause the display of data items, including data items stored in the memory (fig. 1(16), col. 3, lines 8-12, 39-46, SSFDC), in one of a plurality of modes (fig. 8(60), fig. 9(64B-64D)), the modes including a time mode (fig. 9(64)) and a space mode (fig. 9(66)), the display arrangement being arranged:

to switch between the time (fig. 9(64B)) and space (fig. 9(64G)) modes in response to a corresponding input on the control input (col. 5, lines 47-61));

to display in the time mode (fig. 9(64B)) a representation of a time interval together with representations of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information (figs. 9(64E), 9(64F), 10(72A), 10(72B("Display Capturing Time" -> "For all markers. Display title and capturing time

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with true being last argument of map_picmarker" -> "Update display")), col. 6, lines 16-31);

and to display in the space mode (fig. 9(66)) a representation of a display area together with representations of those data items that have respective location information within the display area, the representations of data items being displayed at locations corresponding to the respective location information.

As to claim 10, Ota discloses a method of operation of a computer device the method including: accepting (fig. 1(14), GPS receiver) input data;

testing whether input data includes time information and determining the time of any input data not including time information (col. 6, lines 17-20);

testing whether input data includes location information (col. 5, lines 53-61) and determining the computer device location as the location of any input data not including location information (col. 6, lines 17-20);

recording (fig. 11, col. 3, lines 25-30) input data as data items including both time information and location information;

accepting an input to select a time or a space mode (col. 3 lines 18-22);

in the time mode (col. 5, lines 48-52), displaying on a display screen representations (fig. 9(64)) of data items in a time interval on a time line according to the time information stored in the memory corresponding to the data items (col. 5, lines 11-17, col. 7, lines 46-52);

in the space mode, displaying on the display screen representations (fig. 9(66)) of data items on a displayed area according to the location information corresponding to the data items (col. 7, lines 46-52).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5-9, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ota** (US Patent 6437797) in view of **Ogaki et al.** (US Pub 20020154150).

As to claim 2, Ota discloses image data managing method using GPS receiver. Ota does not teach a zoom control.

Ogaki et al. (herein after Ogaki) teaches a display control method comprising a zoom control (fig. 4, page 2, [0019], [0022]).

Therefore, it would have been obvious to one skill in the art at the time the invention was made to combine Ogaki's display control method with Ota's image data managing method in order to adjust the zoom setting of the display to adjust the

displayed time interval and the display area to get more detail positional information of captured images.

As to claim 3 Ogaki teaches a display control method where the data items are displayed together with information relating to the data items, the amount of information displayed for each data item varying with the zoom setting set by the zoom control ((fig. 4, (Menu, Address) page 4, [0052]).

As to claim 5, Ota teaches a portable computer device comprising a control (fig. 8(60A), picture button, fig. 9(64G), display position button) for selecting data items wherein on switching between time and location modes the selected data item remains displayed.

As to claim 6, Ota teaches a portable computer device wherein the display of data items includes displaying icons (fig. 8(60)) corresponding to the data items.

As to claim 7, Ota discloses a computer device wherein the data acceptance logic (fig. 2) associates a tag (fig. 2(32), (34), col. 3, lines 61-67, Info Private tag and Exif Private tag) of predetermined format with each data item, the tag including the location, the time and the type of the corresponding data item.

As to claim 8, Ogaki teaches a display control method comprising a scroll control (fig. 4, page 2, [0019], [0022]) for scrolling the time mode and space mode displays.

As to claim 9, Ota teaches a computer device comprising a camera (fig. 1(12), col. 3, lines 25-27) to record images.

As to claim 11, Ogaki teaches a method including accepting input on a zoom control (fig. 4, page 2, [0019], [0022]) and zooming the display to change the display area in the space mode and to change the time interval in the time mode wherein the data items are displayed together with information relating to the data items, the amount of information displayed for each data item varying with the zoom setting set by the zoom control.

As to claim 12, Ota teaches a method including recording an image corresponding to a new event (col. 3, lines 16-22), storing the image as a data item (col. 3, lines 39-41) together with the time and location information and displaying the image when displaying the data item (col. 3, lines 41-46).

As to claim 13, Ota teaches a computer program product (fig. 3, image managing (IM) software, col. 4, lines 28-31) arranged to cause a computer to carry out the steps of a method.

As to claim 14, Ota teaches a computer program product (fig. 3, digital map (DM) software, col. 4, lines 8-11) recorded on a data carrier (fig. 1(16), col. 3, lines 8-12, 39-46, SSFDC).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ota** (US Patent 6437797) in view of **Ogaki et al.** (US Pub 20020154150) and in further view of **Rusch** (US Patent 6801777).

As to claim 4, Ota (modified by Ogaki) discloses a image reproducing device including a GPS unit comprising: a location determining arrangement (col. 3, lines 13-22) for obtaining location information; and a clock unit (fig. 9(64B) for determining time information, wherein the display arrangement includes a screen (figs. 8-14) for displaying information; and the data input (fig. 1(14), GPS receiver). It is obvious that GPS receiver includes data exchange circuitry.

Ota (modified by Ogaki) does not teach a portable computer device including a wireless interface for bi-directional communication.

Rusch teaches a wireless communication device that includes various wireless protocols (fig. 1, col. 2, lines 26-28, 34-59).

Therefore, it would have been obvious to one skill in the art at the time the invention was made to combine Rusch's wireless communication device with Ota's GPS receiver to built a portable computer device which can be advantageous to determine

positional and time information for image data and for wireless communicating with various communication networks.

(10) Response to Argument

On page 5, 2nd paragraph of the Brief, Appellant argues that ***there is no time interval associated with single picture and there is surely no "representation (90) of a time interval" shown or suggested by the reference numeral 64B of fig. 9, or its accompanying description in the specification of Ota.***

The Examiner strongly disagrees with Appellant's assertion. Ota clearly teaches to display a time interval together with representations of data items.

Fig. 7 shows data items (Album list) with a time interval (For example, "China Town...August 1995", "Nagoya...January 1995).

Fig. 8 shows picture buttons 60A displayed correspond to the number of image registered in the albums (data items). If a desired picture button 60A is clicked to designate a desired image, the original image thereof is displayed on the monitor (see col. 5, lines 22-35).

Fig. 9 displays the designated image 64A including the captured time 64B (see col. 5, lines 38-52).

When the user clicks each or the desired picture buttons of 60A (fig. 8), the image display screen 64 displays the designated image 64A and the capturing time 64B (fig. 9).

Therefore, when each picture buttons are clicked, then each designated images are displayed at a different capture time (time interval). Furthermore, fig. 10 (70A) indicates the locations of the images and thumbnails 70B of the images are displayed on the digital map corresponding to the locations. When the buttons 72B is clicked the captured time is displayed at each capturing place on the digital map (see col. 6, lines 7-31).

Thus, here again Ota clearly teaches displaying each captured place and captured time.

On page 6, 1st paragraph of the Brief, Appellant argues that ***there is no specified time interval, only the random times associated with the images being displayed on the digital map and no representation of a time interval.*** The Examiner respectfully disagrees to this statement.

Appellant states that, “... ***time display in Ota ... fig. 10 ... Ota allows the user to display all captured images by location, and associated time stamps with each image... the capturing time is displayed at each capturing place on the digital map ...***”.

Ota discloses “display capturing time” that allows user to see the time stamp on all of the images being displayed on the map. (see, 10(72A), 10(72B(“Display Capturing Time” → “For all markers. Display title and capturing time with true being last argument of map_picmarker” → “Update display”)), col. 6, lines 16-31, in Ota). Time length or difference between any of those two time stamps is “time interval”.

On page 7, 2nd paragraph of Brief, Appellant states, ***“Different images may be displayed at different times, but this does not mean different time intervals ... claim 1 recites displaying “a representation of a time interval.” ... different images may be displayed at different times is inapposite to this recitation”***. The Examiner again respectfully disagrees to this statement.

Ota’s displaying different images at a different time is the same as Applicants’ claimed invention, “Displaying data items at different time interval”. The gap between two different times has the same meaning as time interval.

According to Merriam Webster Dictionary, the word **“interval”** means **“a space of time between events”**. Also according to dictionbary.com, **“time interval”** means **“a definite length of time marked of by two instants”**. Thus, the term *“different time”* has the same meaning as *“time interval”*.

Therefore, Ota clearly teaches Applicants’ claimed invention.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Afroza Y Chowdhury/

Examiner, Art Unit 2629

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Conferees:

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